IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 584 OF 2005

IN

SUIT NO. 1735 OF 2005

M/s. Chenaji Narshinghi
& Ors. .. Plaintiffs.

vs.

M/s. Shirpur Gold Refinery Ltd., .. Defendants.

Mr. S.N. Vaishnawa i/by N.N. Vaishnawa & Co.
for plaintiffs.
Mr. N. Sahu i/by S.K. Shrivastava & Co.
for Defendants.

CORAM : S.U.KAMDAR, J.

DATE : 20th February, 2006.

P.C.

. The present suit is filed for recovery of a sum of Rs. 17,37,495/- comprising of principal amount of Rs. 15 lacs and interest amount of Rs. 2,37,495/- The said suit is arising out of a refund of deposit under agreement dated 15.8.2001 which Exhibit A to the plaint. The said agreement is duly signed by both the parties. The only defence raised by the defendants is that the dealings were with the

proprietary concern whereas the suit is filed by the partnership firm. Admittedly, plaintiff no. 2 was the sole proprietor of the said firm. It seems that the plaintiffs have subsequently constituted a partnership firm and, therefore, the suit as filed by the plaintiffs is maintainable. Thus there is no substance in the contention raised. No other contention has been raised. The defendants are directed to deposit in this Court a sum of Rs. 17,37,495/- within a period of four weeks failing which plaintiffs will be entitled to decree. The amount if so deposited, the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court. Summons for judgment disposed of accordingly.

2. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.